Remarks

Claim 1 to 9 are pending in the present application, of which claim 1 is the only independent claim. Claims 1, 3, 5 and 8 are amended solely to improve on their form.

Applicants note that the Office indicated in the Office Action Summary that the Action is both final and non-final. Applicants assumed that this first Office Action was non-final, but respectfully request reissuance of the action in case that this assumption was incorrect.

In paragraphs 3 and 4, the Office noted faulty designation of two numerals in the specification.

In response, applicants have made the amendments suggested by the Office.

In paragraph 5, the Office suggested that the term "realized" in claim 8 be replaced with a more technical term if possible.

In response, applicants have amended the term to -- accomplished --.

In paragraphs 6 to 8, claims 1 to 9 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

In particular, the Office rejected the phrase "a plurality of spring and shock absorber assemblies" in claim 1, line 2. In particular the view was expressed that "said springs" in line 3 of claim 1 and "said shock absorbers" in claim 1, line 13, lack a clear antecedent basis.

In response, applicants have amended the claim to provide a clearer antecedent basis for "said springs" and "said shock absorbers."

Furthermore the view was expressed that the function of "the sensor means" in lines 8 to 9 of claim 1 is not recited.

In response, applicants have amended the claim to state the function of the sensor means.

In paragraphs 9 and 10, the Office rejected claim 5 under 35 USC §112, first paragraph, as failing to comply with the written description requirement for containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In particular, the view was expressed that the phrase "support location table which is separately parameterized for a specific vehicle in accordance with pull and press steps" is not adequately described so as to enable an artisan skilled in the spring and shock absorber art to make and use the same.

Applicants note that the rejected phrase is part of the original disclosure and that there is a strong presumption that an adequate written description of a claimed invention is present when the application is filed. However, applicants note that a written description can be lacking even in a original claim, when, for example, the invention as a whole is not adequately described if the claims require an essential or critical feature which is not adequately described in the specification and which is not conventional in the art or known to one of ordinary skill

in the art. (MPEP §2163 I.A.)

Applicants have amended claim 5 to define the "characteristic line" as ($\rho_x = f(h_x)$). Applicants note that this characteristic line of the friction coefficient of the damper can adopt a course in a pull step different from that in a press step. The course of the characteristic line can be described through values in a table, so called support locations, and a corresponding mathematical function using said support locations. The claimed non-linear characteristic line can, for each vehicle, have a different course.

Applicants submit that the person skilled in the art would have readily recognized the above modus operandi in view of the description and general knowledge in the art at the time the invention was made and thus that applicants were in possession of the claimed invention at the time the application was filed.

In paragraph 11, the Office requested clarification as to the indication of the relevance of certain references cited in the Search Report issued by the Search Department of German Patent Office (DPMA) in the priority application.

Initially, applicants note that the claims of the present application are based on and are closely related to those of the German priority document. Any changes were primarily made to conform the claims to United States claiming format.

Applicants further note that the search report was issued by the search department of the DPMA. Thus, the search report did not result from a search performed by an examiner at the DPMA. In fact, the first publication of the application on June 17, 2004 (DE 102 57 008 A1) does not indicate that

examination has been requested.

Applicants have reviewed the documents that were indicated to be particularly relevant to the invention and submit that they do not share the DPMA's attribution of relevance. However, applicants can, at this point, not submit any insights into the rationale of the DPMA's attribution of relevance.

In paragraph 14, the Office rejected claims 1 to 9 under 35 USC §102(b) as being anticipated by DE 42 01 464 to Stoll et al (hereinafter "Stoll").

In particular, the Office noted end position sensors 20 and 23 in Stoll's FIG. 1.

Stoll discloses an arrangement for damping of a cylinder, which is used, for example, for the automatized control of the manufacture of certain products. Stroll's goal is to shorten the set-up time of the position of the cylinder and the piston rod, respectively, at the highest possible velocity of the piston. Applicants note that Stoll regulates the velocity of his cylinder in its end position in dependence upon signals of (distance) sensors by adjusting the diameter of the throttle. This control/regulation of the velocity of the cylinder differs fundamentally from the adjustment of the damping hardness of the presently claimed invention, as Stoll's cylinder is to be adjusted quickly and precisely and Stoll's process is associated with practically no exterior damping forces (apart from centrifugal forces).

Claim 1 requires:

> "said shock absorbers of said assemblies having respective <u>coefficients of friction ($\rho_x$)</u>;

> a shock absorber control unit connected to the shock absorbers of corresponding ones of said assemblies to adjust the damping hardness given by the corresponding coefficient of friction ($\rho_x$); and,
>
> the friction coefficient ($\rho_x$) of each one of said shock absorbers being a function of the spring elevation ($h_x$) measured for the spring associated therewith ($\rho_x = f(h_x)$)" (emphasis added)

Accordingly, in the present invention the damping hardness given by the corresponding damping force (more precisely, the friction coefficient ($\rho_x$)), which is a function of the respective spring elevation ($h_x$), is adjusted (See FIG. 3 and page 5, lines 4 to 8).

Thus, the damping hardness of the present invention is regulated/controlled via the spring elevation ($h_x$) of the respective spring and, in contrast to Stoll, independently of the velocity of the piston rod.

Also in contrast to Stoll, the velocity of the damper and the piston rod of the present invention is dependent on the load of the vehicle and the spring deflection properties of the respective wheel relative to the chassis of the motor vehicle and is, in particular, dependent upon the properties of the road surface.

As a result, the presently claimed invention avoids that the end position buffers collide with the end position of the spring legs and thereby avoids, for example, undesirable noises and sudden load transfer to the component parts.

Applicants also submits that Stoll constitutes non-analogous art and thus could not be used in a 35 USC §103 rejection

(MPEP §2141.01).

Above, applicants have shown that Stoll does not disclose every element of claim 1 as required by a rejection under 35 USC §102(b). Accordingly, claim 1 should now be in condition for allowance. Claims 2 to 9, which are dependent from claim 1, should also be in condition for allowance.

Reconsideration of the application is respectfully requested.

Respectfully submitted,

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Date: September 28, 2004